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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/709,580

05/14/2004

Paul K. MEEKER

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EXAMINER

EDELL, JOSEPH F

ART UNIT

PAPER NUMBER

3636

NOTIFICATION DATE

DELIVERY MODE

09/24/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@hahnlaw.com  
akron-docket@hotmail.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/709,580	<b>Applicant(s)</b> MEEKER ET AL.	
	<b>Examiner</b> JOSEPH F. EDELL	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-10 and 41-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10, and 41-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08 July 2008 has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-5 and 7-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In addition, Claims 1-5 and 7-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with

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which it is most nearly connected, to make and/or use the invention. Claim 1 recites "an upwardly-extending projection having at least two releasable means for securing said movable component in either said retracted or said at least one extended position."

However, the specification does not reasonably convey to one skilled in the art that Applicant had possession of this subject matter at the time of filing. Moreover, the specification does not describe this subject matter in such a way as to enable one skilled in the art to make and/or use the invention. Examiner assumes the recited upwardly-extending projection corresponds to the disclosed projection 64. However, the instant application does not convey or enable the projection 64 extending upwardly. The specification fails to teach corresponding structure for two releasable means for securing the movable component that are defined by an upwardly-extending projection.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 and 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "an upper headrest interior width" and the phrase "a lower area interior width" are unclear rendering the scope of the claim indefinite. Do these limitations correspond to the width of the recited middle section of the movable component or the widths between each area's pair of forward extending wings?

Claim 9 recites the limitation "said locking means" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,273,509 B1 to Reithmeier et al.

Reithmeier et al. disclose a car seat that includes all the limitations recited in claims 1-4, as best understood. Reithmeier et al. show a car seat having a seat member 12 (see Fig. 1), a back member 14 connected to the seat member, a fixed component of the back member with a flat middle section and a pair of raised contoured sides 18,18 adjacent the middle section, a movable component 22 of the back member with a flat middle section 30 and a pair of raised contoured sides 28,28 adjacent the middle section, an upper headrest area (area above indentations 38,38) of the movable component with a pair of forward extending wings and an upper headrest interior width, a lower area (area below indentations 38,38) of the movable component that is separated from the upper headrest area by a pair of fixed size laterally and inwardly-projecting indentations that extend into the middle section of the movable component to accommodate a shoulder belt, a surface and contour of the lower area in cross-section for sliding movement along a mating contoured surface in cross-section of the fixed component, a lower interior width of the lower area, a means for positioning and retaining the movable component relative to the fixed component (Figs. 5-9) that is

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functionally equivalent to the structure recited in the specification of the instant application, and an upwardly-extending projection 46 with at least two releasable means for securing the movable component wherein the movable component is capable of movement from a retracted position to an extended position, the lower area is fixedly connected to the upper headrest area, the upper headrest interior width and the lower area interior width being essentially the same, movement from the retracted position to the extending position occurring by sliding movement of the moveable component over the fixed component along the raised contoured sides of both the fixed and movable components, the upper headrest area in an invariant fixed relationship to the lower area, the fixed and movable components in an overlapping essentially gapless relationship, the sliding movement does not increase a size of the indentations, the movable component is attached in front of the fixed component (along members 32,32), the components permit telescoping movement therebetween that is fixed by at least one longitudinal channel 42 in the fixed component, and the means for selecting position allows for infinitely variable movement.

Claim 1 uses "at least two releasable means for securing," which fails to invoke 35 U.S.C. 112, sixth paragraph, because it does not meet the three prong analysis set forth in MPEP § 2181.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 7-10, and 41-49, as best understood, are rejected under 35 U.S.C.

103(a) as being unpatentable over Reithmeier et al. in view of U.S. Patent No.

5,845,960 to Lovie.

Reithmeier et al. disclose a car seat that is basically the same as that recited in claims 5, 7-10, and 41-49, as best understood, except that the fixed component lacks two longitudinal channels and the back member is not specified as pivotable, as recited in the claims. See Figures 5-9 of Reithmeier et al. for the teaching that the means for selectively positioning permits adjustment by incremental discrete movement via mating teeth and grooves, that the means for securing has a pair of outwardly biased shafts (ends of member 70) which engage indentations 26 on the fixed component, that the fixed component has a top ledge (near tops of sides 18,18) with left and right ledge shoulder belt clearing surface sections, and that the bottom surfaces of each indentation are at or above the left and right top fixed section shoulder belt clearing ledge surfaces as the movable component travels from the retracted position through the extended position.

Lovie shows a car seat similar to that of Reithmeier et al. wherein the car seat has a seat member 50 (see Fig. 8), a pivotable back member 52,54, a movable component 52 of the back member, and a fixed component 54 of the back member that includes at least two longitudinal channels (near limbs 70,72). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made

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to modify the car seat of Reithmeier et al. such that the back member is a pivotable back member and the fixed component has at least two longitudinal channels, such as the car seat disclosed by Lovie. One would have been motivated to make such a modification in view of the suggestion in Lovie that the pivotable back member allows for storage of the back member when not in use, and that the two longitudinal channels releasably secure the movable component to the fixed component. Moreover, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide another longitudinal channel on the fixed component for enhancing the safety of the positioning member by further securing the movable component to the fixed component.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 and 41 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.



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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/  
Primary Examiner, Art Unit 3636  
September 22, 2008